



*The Commonwealth of Massachusetts
Executive Office of Public Safety and Security
Department of Correction
Legal Division
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Timothy P. Murray
Lieutenant Governor

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James R. Bender
Acting Commissioner

Timothy Hall
Acting Deputy Commissioner

Nancy Ankers White
General Counsel

October 26, 2007

John S. Day, Esq., LLC
The Winslow-Warren Building
65 Main Street
Plymouth, MA 02360

RE: Schmitt v. Mulvey, et al., C.A. No. 04-10717-RWZ
Schmitt v. Smith, et al., C.A. No. 04-10451-RWZ

Dear Attorney Day:

I represented the Department of Correction officials in the above captioned consolidated matters regarding two stories which plaintiff Joseph Schmitt ("Schmitt") wrote while incarcerated at MCI-Cedar Junction. The stories, which depict graphic sexual acts involving children, were evidence in the above matters, and a jury verdict was returned in Schmitt's favor. As a result, Judge Zobel has ordered that the Department return the stories. Due to the nature of the stories, however, and as Schmitt has conceded before the federal court, they cannot be returned to Schmitt, as they are contraband at the Massachusetts Treatment Center where he currently is housed and are not authorized for retention by Schmitt at that facility. 103 CMR 481.15; 103 CMR 431.11, Offense C-13. As such, Schmitt has designated you as the person to whom the stories should be sent.

Please be advised that you are prohibited under any circumstances from providing Schmitt with copies of these stories or in any way attempting to mail them to him at the Massachusetts Treatment Center, whether under the guise of legal mail or as personal mail. Please also be advised that despite a diligent search, the Department has been unable to locate the two originals, and, therefore, a copy of the two stories is being mailed to you in their stead.

Very truly yours,



C. Raye Poole
Counsel

Encl.

cc: Honorable Rya Zobel, USDC, w/o encl.
Robert Murphy, MTC Superintendent, w/o encl.
Joseph Schmitt, M-81137 MTC, w/o encl.